

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**WILLIE B. HAYNES,**

**Defendant.**

**CASE NO. 8:08CR441**

# MEMORANDUM AND ORDER

This matter is before the Court on the motion filed by the Defendant, Willie B. Haynes, for a reduction of his sentence (Filing No. 72) in light of Amendment 706 that resulted in a lowering of the crack cocaine guidelines. The Amendment took effect on November 1, 2007.

On October 1, 2009, the Defendant was sentenced to 188 months imprisonment after pleading guilty to Count II of the Indictment charging him with possession with intent to distribute crack cocaine. His guideline range was 262-327 months based on total offense level 34 and criminal history category VI. The Court departed below the guideline range in sentencing the Defendant, a career offender. (Filing No. 58.) The Eighth Circuit Court of Appeals affirmed Haynes's sentence. This motion followed, in which Haynes requests a reduction in his sentence under 18 U.S.C. § 3582(c)(2).

The Eighth Circuit has stated that a career offender's base offense level is determined under U.S.S.G. § 4B1.1 and not U.S.S.G. § 2D1.1. The sentencing commission lowered the levels under § 2D1.1(c) and did not amend § 4B1.1. *United States v. Thomas*, 524 F.3d 889, 890 (8<sup>th</sup> Cir. 2008). As a career offender, Haynes is not eligible for a reduction in sentence under § 3582(c)(2). *Id.*; *United States v. Blackmon*, 584 F.3d 1115, 1116 (8<sup>th</sup> Cir. 2009), *cert. denied*, 130 S. Ct. 2417 (2010).

Additionally, the Court notes that Haynes's Presentence Investigation Report states that he was sentenced under the 2008 sentencing guidelines, which incorporated the 2007 amendments, including Amendment 706.

IT IS ORDERED:

1. The Defendant's motion for a reduction of his sentence (Filing No. 72) is denied; and
2. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 15<sup>th</sup> day of September, 2010.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge